

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANDRE WILLIAMS, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
January 31, 2006

Petitioner-Appellee,

v

WILLIE JO SOLOMON,

Respondent-Appellant,

and

TRACY LAVETT WILLIAMS,

Respondent.

No. 264646
Wayne Circuit Court
Family Division
LC No. 01-405213-NA

Before: Meter, P.J., Whitbeck, C.J., and Schuette, J.

PER CURIAM.

Respondent Willie Solomon appeals as of right from the trial court's order terminating his parental rights to the minor child.¹ Throughout the proceedings, Solomon and the mother, Tracy Williams, lived together and planned to care for their child together. Unfortunately, at the time of the termination hearing, Williams had not overcome her substance abuse problem. Solomon lacked parenting skills, had anger management problems, and was unwilling to cooperate. We affirm. We decide this appeal without oral argument.²

¹ MCL 712A.19b(3)(c)(i) (authorizing termination where conditions that led to the adjudication continue to exist and there is no reasonable likelihood they will be rectified); MCL 712A.19b(3)(g) (authorizing termination for failure to provide proper care or custody); and MCL 712A.19b(3)(j) (authorizing termination where the child is likely to be harmed if returned to the parent's home).

² MCR 7.214(E).

I. Basic Facts And Procedural History

On December 5, 2003, approximately eight months after the termination of Williams' parental rights to two of her children, the child involved in the present case was born. Williams and the child both tested positive for cocaine. The child was removed from Solomon and Williams' care and adjudicated a temporary court ward.

At a July 6, 2004 review hearing, the case manager, Courtney Ruoff, expressed her concerns about Solomon's parenting skills. Solomon insisted on giving the child a bottle when he was fussy even when the child would not accept it. Ruoff suggested walking with the child and showing him toys, but Solomon "firmly stated to me he had already done that, and informed me that only he knows what's best for the child." Several times when the child's diaper needed to be changed, Solomon handed him to Williams and told her to change it because "that's a woman's job." Although Solomon had completed one series of parenting classes at that point, Ruoff believed that he did not benefit.

As of a October 13, 2004 review hearing, Williams was not complying with the treatment plan, and Solomon was in the process of retaking parenting classes. When Ruoff made suggestions, Solomon told her she did not know anything and became verbally aggressive. He was in individual therapy but did not seem to benefit. He had started therapy with a woman, but because he "demonstrated an aversion to women," he was provided a male therapist. Solomon began with the new therapist on June 11, 2004. According to Ruoff, he was showing the same behavior with the new therapist. The therapists told Ruoff that they had tried to address issues with Solomon, but he remained evasive. In contrast to Ruoff's testimony, the Juvenile Assessment Center report for that period indicated that the case was transferred to the new therapist on August 17, 2004, that Solomon was receptive to the therapist's feedback, and it appeared that he had benefited from the services.

Ruoff's court report for the October 13, 2004 hearing included several reports of peculiar conduct by Solomon. Williams indicated that Solomon laughed about nothing, monitored her phone calls, and that when he returns after leaving her in the house alone, he looks around to see if she has touched anything because he does not want her to "find anything on him." Williams's aunt stated that Williams said that when she was pregnant, Solomon watched her use the restroom to make sure that the baby did not come out. Williams asked the worker about releasing her parental rights but stated that she would "catch hell" from Solomon if she did so. Williams indicated that she was waiting for Ruoff to file for permanent custody because then Solomon would not blame her for any termination of parental rights.

The same report referred to Solomon's lack of understanding of child development. For example, during parenting time on September 8, 2004, Solomon told the nine-month-old child to "pick up the star block and put it where it needs to go." When the child did not respond, Solomon took him away from his toys, and then asked, "Are you ready to go back down and put the blocks where they need to go?"

At a January 14, 2005 permanency planning hearing, Ruoff testified that Solomon became very angry with her and yelled at her while he was holding the child. He insisted that he was not going to pick up any toys and instead ordered Williams to pick up the toys. He had exhibited this kind of behavior toward her throughout the proceedings. Ruoff's supervisor had discussed issues with Solomon, and he was argumentative with her. Ruoff explained that she

attempted to discuss the difficulties between herself and Solomon with his therapist, but Solomon became very argumentative again. According to Ruoff, when his therapists tried to address issues, Solomon changed the subject. However, the parents continued to want to plan together. Williams was cooperative and appropriate during visits, but missed five of twelve, and had not obtained substance abuse treatment.

The Juvenile Assessment Center report for the period October 16, 2004 to November 16, 2004, indicated that Solomon's third therapist believed Solomon had not made any additional progress. When asked why Solomon was not helping Williams remain substance free during the pregnancy, Solomon indicated that several mothers in his neighborhood were known to use drugs and it appeared normal. He did not understand why he was singled out to complete a treatment plan when other mothers were allowed to have their babies and continue abusing drugs. Solomon's overall attitude toward substance abuse was questionable. Although he knew that it was illegal, he felt that it was an individual's choice if they wanted to use cocaine. According to the therapist, Solomon used his therapy sessions to focus on blaming the system.

A report concerning Solomon's psychiatric evaluation on September 24, 2004, stated that his prognosis was "good," and the recommendation was that Solomon "regain custody of his son, Andre, when he is able to complete all the requirements from court and FIA." However, the report indicated that Solomon did not provide accurate information. For example, he stated that with regard to Williams, "'she's never had any problems with drugs, alcohol or psychiatric problems.'" He also denied having any inpatient psychiatric hospitalization. However, Solomon was committed to psychiatric hospitalization from October 27 to November 10, 1987. He was involuntarily committed after assaulting a gas station attendant. Five officers were required to subdue Solomon. The provisional diagnosis was atypical psychosis, and the final diagnosis was adjustment disorder with disturbances of emotions. He was discharged to his family with the recommendation that he follow through with community mental health clinic.

Ruoff's court report for a January 14, 2005 hearing included more examples of Solomon's questionable parenting skills. During a December 15, 2004 visit, Solomon brought the child Christmas presents, but after taking pictures of the child with the wrapped presents, Solomon then took them all away without letting the child unwrap them. Solomon asked Ruoff if the child was destructive because he took the bows off all the presents. Solomon became very frustrated when the child became upset after Solomon took away the presents.

At the termination hearing, Ruoff discussed Solomon's lack of parenting skills and understanding of child development. Solomon often became very frustrated with the child crying. He asked the child to perform tasks that were not appropriate for the child's age, and when the child did not perform, Solomon became frustrated and raised his voice at the child. He took the child away from the toy as if he were placing him in a time-out. He pried the child's mouth open to look at his teeth. He thought the child was not holding his head straight, and so he held the child's head straight by putting his hands around the neck. When the child cried, he gave him to Williams. Solomon was "somewhat aggressive" with the child. He told Ruoff that at age one and a half, a child should know the difference between right and wrong.

The referee noted Solomon's mental health history, including his 1987 hospitalization. The referee found that his refusal to cooperate and engage in treatment objectives was consistent with the behavior in 1987. The referee found that Solomon did not have adequate parenting

skills and cited evidence in support. According to the referee, Solomon did not benefit from parenting classes. The referee found that Solomon was hostile to the caseworkers and did not benefit from anger management therapy. The referee found that because of the parents' "ongoing failure to honestly seek self-improvement . . . the circumstances which prevent reunification will not be rectified within a reasonable time, if ever." The referee found that the following statutory grounds for termination were established by clear and convincing evidence.³

II. Termination Of Parental Rights

A. Standard Of Review

We review the trial court's decision for clear error.⁴ The decision "must strike us as more than just maybe or probably wrong" ⁵ We give due regard to the trial court's special ability to judge the credibility of the witnesses before it.⁶

B. Legal Principles

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been established by clear and convincing evidence.⁷ If the trial court determines that a statutory ground for termination has been established, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests.⁸

C. Applying the Law

Solomon argues that the referee's findings are "totally incorrect" because he completed two sets of parenting classes, his psychiatrist stated that he should "regain custody of his child," and he was able to complete all requirements requested by petitioner.

We conclude, however, that the trial court did not clearly err in finding that the statutory grounds for termination were each established by clear and convincing evidence.⁹ Solomon continued to live with Williams, whose substance abuse problem was ongoing, and he failed to recognize the harm posed by substance abuse. Additionally, he had an anger management problem, lacked comprehension of child development, and was unwilling to cooperate and change.

³ See MCL 712A.19b(3)(c)(i), (g), and (j).

⁴ *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

⁵ *In re Sours*, *supra* at 633 (citations omitted).

⁶ MCR 2.613(C).

⁷ *In re Sours*, *supra* at 632-633.

⁸ MCL 712A.19b(5); *In re Trejo*, *supra* at 353.

⁹ MCR 3.977(J); *In re Sours*, *supra* at 633; *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999).

Solomon's completion of parenting classes does not establish that the referee's findings were clearly erroneous, inasmuch as the referee concluded, and the evidence amply supports, that Solomon did not benefit from the classes. The psychiatrist who completed Solomon's evaluation recommended "that [Solomon] regain custody of his son, Andre, *when* he is able to complete all the requirements from court and FIA." Although the evaluator stated that "[t]he prognosis is good," the report also indicates that Solomon did not provide accurate information. For example, with regard to Williams, he stated that "'she's never had any problems with drugs, alcohol or psychiatric problems.'" Solomon also incorrectly denied any prior inpatient psychiatric hospitalization on his part.

Solomon also argues that the trial court failed to consider that he had a source of income, housing and furniture, had no substance abuse problem, loved his child, visited regularly, completed the assessment by the clinic for child study, as well as the psychological and psychiatric evaluations, and that he "was in counseling and proceeding very well."

Although Solomon's compliance with the treatment plan was adequate, we conclude that the referee did not clearly err in finding that he failed to benefit from services, had a volatile temper, lacked parenting skills, and was unwilling to cooperate. The positive factors cited by Solomon do not show that the referee clearly erred in finding that the statutory grounds for termination were properly established.

Because Solomon was still with Williams, whose substance abuse problem was ongoing, and he failed to recognize the harm posed by substance abuse, we conclude that the referee did not clearly err in finding that the conditions that led to the adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the child's age.¹⁰ For the same reasons, and in light of evidence of Solomon's anger management problem, his lack of comprehension of child development, and his unwillingness to cooperate and change, the referee did not clearly err in finding that there is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if returned to the home of the parent.¹¹ Solomon's lack of comprehension of child development and unwillingness to cooperate and change also support the referee's finding that he failed to provide proper care or custody for the child and there is no reasonable expectation that he would be able to provide proper care and custody within a reasonable time considering the child's age.¹²

We affirm.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Bill Schuette

¹⁰ MCL 712A.19b(3)(c)(i).

¹¹ MCL 712A.19b(3)(j).

¹² MCL 712A.19b(3)(g).